

IN THE CHANCERY COURT OF THE STATE OF TENNESSEE
TWENTIETH JUDICIAL DISTRICT, DAVIDSON COUNTY

STATE OF TENNESSEE, ex rel.)	
PAULA A. FLOWERS, Commissioner)	
of Commerce and Insurance for the State of)	
Tennessee,)	Case No. _____
)	
Petitioner)	
)	
v.)	
)	
Tennessee Trucking Association Self)	
Insurance Group Trust, a Tennessee)	
workers' compensation self-insurance trust,)	
et al.)	
)	
Respondent)	
_____)	

AFFIDAVIT OF MARK E. JAQUISH, CFE, CPA
INSURANCE EXAMINER

STATE OF TENNESSEE)
 :
COUNTY OF DAVIDSON)

COMES NOW, MARK E. JAQUISH, and being first duly sworn, deposes and says.

1. I am Mark E. Jaquish, and I am over the age of 21, and am otherwise in all respects competent to give the within affidavit. I have personal knowledge of the matters stated in this affidavit.

2. I am a licensed certified public accountant and certified financial examiner and am employed by the Department of Commerce and Insurance of the State of Tennessee (the "Department") as an Insurance Examiner. In that capacity, my duties include

conducting statutory examinations of insurers regulated by the Department. I have been employed in such capacity for over eleven years.

3. As a part of my duties as an Examiner, I was appointed on May 2, 2003, in connection with the entry of an Agreed Order of Administrative Supervision pertaining to Tennessee Trucking Association Self-Insurance Group Trust, a workers' compensation self-insurance group ("TTA-SIGT"), to assist in said Administrative Supervision and to conduct an examination of the condition and affairs of TTA-SIGT. Said Order of Administrative Supervision is an exhibit to the affidavit of Larry C. Knight, Jr., Assistant Commissioner for the Insurance Division in the Tennessee Department of Commerce and Insurance, filed concurrently herewith.

4. Pursuant to Tenn. Comp. Rules & Regs., Ch. 0780-1-54-.02, Trucking Services, Inc., serves as Administrator of TTA-SIGT pursuant to an agreement dated on or about December 21, 2001.

5. Attached hereto as Exhibit 1 is an audited financial statement for the year ended December 31, 2002, filed by TTA-SIGT on or about July 10, 2003, showing that the Trust suffered a net loss for the year ending December 31, 2002, in the amount of \$2,834,656, with the result that the Trust had a cumulative net worth, or "Members' balance," as of the year ended December 31, 2002, of (\$2,380,258).

6. According to TTA-SIGT's actuarial report, submitted by Actuarial Consulting, Inc., to TTA-SIGT on November 17, 2003, and submitted by TTA-SIGT to the Department on December 11, 2003, the estimated net income (loss) for TTA-SIGT for the year ended December 31, 2003, will be (\$4,632,331), with the result that the total estimated losses for the years 2002 and 2003 will be \$7,399,868. The Actuarial Report,

in relevant part, is attached hereto as Exhibit 2. If accurate, the resulting cumulative net worth of TTA-SIGT as of December 31, 2003, will be (\$6,936,470).

7. By letter dated July 24, 2003, the Department directed TTA-SIGT to assess its members for the 2002 deficit.

8. TTA-SIGT failed to make the assessment in accordance with the direction of the Department, thus violating Tenn. Comp. Rules & Regs., Ch. 0780-1-54-.18.

9. In accordance with said Rule, the Commissioner of the Department of Commerce and Insurance, on October 1, 2003, entered an Order of Assessment directing the assessment against TTA-SIGT's members of the deficit. The Order of Assessment (which includes the letter referred to in paragraph 7, *supra*) is attached hereto as Exhibit 3.

10. TTA-SIGT is not in compliance with the Order of Assessment. TTA-SIGT has contested the allocation to individual members set forth in the Order of Assessment, but does not dispute the fact that approximately \$2,800,000 must be assessed. Even if TTA-SIGT came into compliance for the year ending December 31, 2002, this would create no assurance that the projected \$4,632,331 deficit for the year ending December 31, 2003, would be mitigated.

11. TTA-SIGT has already spent its entire available 2002 premium collections, and current payments for 2002 claims are being made out of 2003 funds. The definitive 2003 assessment still awaits final measurement and projection, which are generally calculated in conjunction with the required financial statements filed with the Department six months after the conclusion of the calendar year. Because TTA-SIGT is not writing

business in 2004 there is no new income stream and no reliable source of further assessed premium for the two prior years.

12. On January 16, 2004, Dan H. Elrod, Esq., of Miller & Martin LLP, Attorneys at Law, submitted to the Department a proposed “run-off” plan, a copy of which is attached hereto as Exhibit 4.

13. The plan submitted by TTA-SIGT’s counsel (1) does not purport to bring TTA-SIGT in compliance with the Order of Assessment, (2) does not project that it will come into compliance at some future date, and (3) does not set forth a plan for satisfying the claims of the injured employees of the members.

14. As of January 1, 2004, all of the members of TTA-SIGT have resigned or canceled or failed to renew coverage. Tenn. Code Ann. § 50-6-405(c) requires ten or more employers for the formation of a group that will qualify as a single self-insurer as contemplated by § 50-6-405(a). Absent such membership TTA-SIGT is not eligible to offer coverage at this time.

15. Notwithstanding said resignations, the letter of Attorney Elrod (Exhibit 4) acknowledges the continuing incumbency of a Board of Directors for TTA-SIGT. Further deponent saith not.

Mark E. Jaquish

Sworn to and subscribed before
me this ____ day of January, 2004.

Notary Public

My commission expires:_____